



THE CITY OF SAN DIEGO

DEVELOPMENT SERVICES DEPARTMENT

Date of Notice: May 16, 2007

PUBLIC NOTICE OF A

DRAFT SUPPLEMENT TO AN ENVIRONMENTAL IMPACT REPORT

JO: 6090

PUBLIC NOTICE: The City of San Diego Land Development Review Division has prepared a draft Supplement to an Environmental Impact Report (EIR) for the following project and is inviting your comments regarding the adequacy of the document. **Your comments must be received by June 30, 2007 to be included in the final document considered by the decision-making authorities.** Please send your written comments to the following address: **Marilyn Mirrasoul, Environmental Planner, City of San Diego Development Services Center, 1222 First Avenue, MS 501, San Diego, CA 92101** or e-mail your comments to **mmirrasoul@sandiego.gov** with the Project Number in the subject line.

General Project Information:

- Project No. **63422**, Supplement to EIR No. 96-0333, SCH No. 96081056
- Community Plan Area: **All**
- Council District: **All**

Subject: LAND DEVELOPMENT CODE REVISIONS: Affordable Housing Density Bonus Regulations: Amendments to Chapter 14, Article 3, Division 7, Sections §143.0710 through §143.075, and Chapter 12, Article 6, Division 7 of the Municipal Code, Section §126.0708, and Section 141.0310. The regulations are intended to apply city-wide; however, until unconditionally certified by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Applicant: City of San Diego

Recommended Finding: The recommended finding that the project may have a significant effect on the environment beyond those previously disclosed in EIR No. 96-0333 is based on an Initial Study and a review of the previously prepared EIR. The draft Supplement concluded that the proposed revisions have the potential to result in significant impacts to visual quality and transportation/parking, as well as cumulative impacts to visual quality and parking.

Availability in Alternative Format: To request this Notice, the Supplement EIR, EIR No. 96-0333 and/or supporting documents in alternative format, call the Development Services Department at 619-446-5460 or (800) 735-2929 (TEXT TELEPHONE).

Additional Information: For environmental review information, contact Marilyn Mirrasoul at (619) 446-5380. The draft Supplement EIR, EIR, and supporting documents may be reviewed, or purchased for the cost of reproduction, at the fifth floor of the Development Services Center. For information regarding public meetings/hearings on this project, contact Project Manager Dan Joyce at (619) 446-5388. This notice was published in the SAN DIEGO UNION and SAN DIEGO DAILY TRANSCRIPT. In addition, this notice and the draft Supplement were placed on the City of San Diego website (see below) and distributed on May 16, 2007.

<http://clerkdoc.sannet.gov/Website/publicnotice/pubnoticeqa.html>

Deputy Director Robert J. Manis
Development Services Department



Land Development
Review Division
(619) 446-5460

SUPPLEMENT to an ENVIRONMENTAL IMPACT REPORT

Project No. 63422
Supplement to EIR No. 96-0333
SCH No. 96081056

SUBJECT: LAND DEVELOPMENT CODE REVISIONS: Affordable Housing Density Bonus Regulations: Amendments to Chapter 14, Article 3, Division 7, Sections §143.0710 through §143.075, and Chapter 12, Article 6, Division 7 of the Municipal Code, Section §126.0708, and Section 141.0310. The regulations are intended to apply city-wide; however, until unconditionally certified by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Applicant: City of San Diego City Planning and Community Investment Department.

May 2007 Update

This revised and recirculated environmental document reflects recent changes to the previously proposed Land Development Code amendments and provides additional clarification regarding the implementation of these amendments.

I. PROJECT DESCRIPTION

The existing and revised density bonus regulations apply to any residential development of five or more pre-density bonus dwelling units where an applicant proposes density beyond that permitted by the existing zone. The applicant must either reserve a portion of the units for moderate, low, or very-low income households, or senior citizens or donate land.

The majority of the proposed Land Development Code (LDC) revisions are intended to implement requirements mandated by State Assembly Bill (AB) 1866, State Senate Bills (SB) 1818 (January 2005) and SB 435, and facilitate the development of affordable housing for very-low and low-income renters, seniors, and moderate income residents within the City of San Diego.

In general, recently adopted state law requires the City to provide up to three regulatory incentives or benefits to applicants for a traditional density bonus based on the percentage of affordable units included as part of the development proposal; it provides additional incentives or concessions to qualifying projects that include on-site day care facilities; it expands the density bonus entitlement option to all common interest developments (condominium, condominium conversions, and planned unit developments) which provide for-sale units restricted to moderate income residents; it adds a density bonus category for projects that include the donation of land to the City; it increases the maximum density bonus from 25 percent to 35 percent with a sliding scale of density bonus from 5 percent to 35 percent depending upon the proportion of affordable units; it limits the parking standards required for density bonus projects and allows the use of tandem parking; it changes the length of the affordability requirements; it clarifies that the density bonus for senior development also applies to senior mobilehome parks; and it clarifies that the applicant may only receive one density bonus per project.

In addition to the new provisions included within state law, the City would offer up to a 10 percent ministerial density bonus to projects that build inclusionary units (required for residential projects pursuant to the Inclusionary Housing Ordinance) on-site rather than paying an in-lieu affordable housing fee, and offer a 20 percent increased density bonus (rather than the five percent minimum offered per state law) for projects that provide ten percent of the units as moderate income ownership units.

In summary, the goal of the density bonus ordinance is to increase the supply of the City's affordable housing by bringing the City's density bonus ordinance into compliance with state law and enacting two additional provisions specific to San Diego. A copy of the draft Density Bonus Regulations has been included with this document as Attachment B.

II. ENVIRONMENTAL SETTING: See EIR.

III. DISCUSSION

The City's density bonus regulations were originally adopted in 1981 and were last amended in 1999. The City's existing density bonus regulations were never approved by the Coastal Commission, so by default state regulations apply in the Coastal Zone. State law supersedes the City's current density bonus ordinance, and staff has been using both current state law and the existing City regulations to review density bonus applications. State law provisions take precedence in the event of a conflict.

Approximately 1000 density bonus units have been produced over the last 20 years within the City of San Diego. With the ordinance revisions, it is anticipated that approximately 50 to 100 density bonus units could be provided per year. As is currently the case, applicants may request additional incentives or community plan amendments for the provision of an increased number of units as well.

The proposed amendments to the LDC would define the parameters for density bonus projects specific to the City of San Diego for developments of five or more dwelling units. As is currently the case for all discretionary projects, all new discretionary developments which take advantage of the ordinance provisions would be required to comply with applicable environmental regulations.

Maximum Density

For projects providing inclusionary units on-site, the maximum ministerial density bonus granted would be ten percent. An applicant could seek an additional 25 percent density bonus, up to a maximum density bonus of 35%, if the state law density bonus regulations are utilized.

For senior citizen housing projects of at least 35 units or a mobilehome park that limits residency based on age requirements for older persons the density bonus would be 20 percent.

For projects providing a donation of land, the density bonus would be granted for a donation of land that could accommodate at least 10 percent of the pre-density bonus units of the proposed development (approximately one acre or of sufficient size to permit the development of at least 40 very low income affordable units). The land must be zoned and have a general plan designation appropriate for residential development, and must be adequately served by public facilities and infrastructure. In addition, the land must be within the boundary of the proposed development or

within ¼ mile of the boundary of the proposed development with City approval. The density bonus, for projects providing a land donation, would start at a minimum of 15 percent pre-density bonus units or 15 percent of the maximum FAR allowed for projects within Centre City Planned District. The density bonus would increase on a sliding scale up to 35 percent for land that could accommodate 30 dwelling units.

For other qualifying projects the new density bonus regulations mandated by state law allow a maximum pre-density bonus of 35 percent (either of units or the maximum FAR allowed for projects within Centre City consistent with LDC Section 151.0310(e)) rather than the 25 percent previously allowed. This increased density could be higher than the density allowed by the underlying zone, community plan, and/or planned district ordinance.

Additional Development Incentives (Section 143.0740)

New state law requires that the City grant an applicant's request for up to three incentives. These incentives may include a deviation from development regulations, the approval of a mixed use development in conjunction with a residential development, or any other regulatory deviation proposed by the applicant or the City which would result in an identifiable, financially sufficient, and actual cost reduction. A mixed-use development of residential and commercial, office, or industrial uses must reduce the cost of the residential development and be compatible with the residential development and the applicable land use plan.

For further clarification regarding potential incentives, the proposed amendments (See pages 5 & 6 of Attachment B) specifically preclude the following from being considered as density bonus incentives:

- A waiver of a required permit
- A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5)
- A waiver of fees or dedication requirements
- A direct financial incentive
- A deviation from the requirements of the San Diego Building Regulations

In addition, incentives may not be granted if the City makes written findings that the incentive is not required in order to provide for affordable housing costs, or would have an adverse impact upon health and safety, or the physical environment, or on any property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. However, the granting of an incentive would not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. In addition, and according to state law, CEQA only applies to discretionary projects.

Qualified projects that include child care centers under certain conditions would be entitled to either an additional density bonus (of up to a maximum density bonus of 35 percent) or an additional regulatory incentive.

The applicant may also request a reduction of the parking requirement, inclusive of handicapped and guest parking, for certain projects not exceeding the ratios shown on Attachment C.

The new density bonus regulations would allow up to three regulatory development incentives based on the number and the affordability of the units provided in a common interest development through a Process One action. Additional incentives may be granted via deviation requests through a Process Three, Site Development Permit (SDP) action, provided that supplemental findings can be made.

Supplemental Findings

The supplemental findings for SDP are:

1. The development assists in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City.
2. The incentive would not have an adverse impact upon the public health, and safety, or upon environmentally sensitive lands.
3. The incentive would not have an adverse impact on historical resources.

Coastal Zone (Section 143.0750)

Affordable Housing Density Bonus projects within the Coastal Overlay Zone would be subject to the applicable certified land use plan and implementing ordinances, including the Coastal Development Permit. Deviation requests from the Environmentally Sensitive Lands Regulations within the coastal zone would require that a Site Development Permit be obtained and supplemental findings be made. Height within the Coastal Height Limitation Overlay Zone/Proposition D Area would continue to be subject to the current 30-foot height limit. As described earlier, deviations from the requirements of the Coastal Height Limit Overlay Zone could not be considered as incentives.

Supplemental Findings – Environmentally Sensitive Lands within the Coastal Overlay Zone (Section 126.0708)

The supplemental findings required for requests for deviations from Environmentally Sensitive Lands Regulations have been revised to require that a public hearing on the Coastal Development Permit address the economically viable use determination. (The economically viable use determination is that the use and project design, siting, and size are the minimum necessary to provide economically viable use.) In addition, findings must include that feasible alternatives to the requested incentive and the effects on coastal resources have been considered and the granting of the incentive or alternative will not adversely affect coastal resources.

It should be noted that the decision maker would not be precluded from denying the project for other reasons.

Projects Subject to the California Environmental Quality Act (CEQA)

Discretionary projects are subject to CEQA while ministerial projects are statutorily exempt. If a project would have been discretionary without the requested density bonus or incentive(s) it would continue to be discretionary and would be subject to CEQA. If a project would have been ministerial without the requested density bonus or incentive(s) it would continue to be ministerial and would not be subject to CEQA review. Additionally, projects requesting incentives that otherwise would require discretionary review (without a density bonus) now may become

ministerial using the density bonus regulations. By approving the amendments to the LDC, the City Council would be codifying how projects proposing to use the density bonus regulations would be processed.

Potential Impacts

Visual Quality (Neighborhood Character/Views/Aesthetics)

Significance Criteria

In analyzing a project's potential environmental effects, staff is guided by the City's Significance Determination Thresholds. The Visual Quality section of the Guidelines addresses public views from public spaces, neighborhood character, and aesthetics. While several factors are involved in evaluating potential project impacts in these areas, the effect of bulk and scale is a common theme in all three. For instance, according to the Guidelines, projects that severely contrast with the surrounding community character by substantially exceeding height or bulk regulations, or those that strongly contrast architecturally with existing patterns of development in surrounding areas may result in a significant impact on neighborhood character. Projects that exceed height and bulk regulations and, as a result, substantially block views from public areas (roads, designated open space, etc.) of public resources such as the ocean may be considered to have a significant view impact. Projects with development features that significantly conflict with the height, bulk, or coverage regulations of a zone without also providing architectural interest may result in a significant aesthetic impact.

Impact Conclusion of the LDC EIR

The LDC EIR did not identify significant view or aesthetic impacts, and concluded that significant impacts to neighborhood character would not result from the adoption of the LDC. This conclusion was based on the expectation that future projects would conform to the LDC development regulations. These regulations specify the bulk and scale limits of features that affect neighborhood character, views, and aesthetics, such as building setbacks, lot size, height, and floor area ratio (FAR). In general, these types of limits are identified and applied within each zone or planned district ordinance.

Proposed Project Impact

The density bonus incentives included in the revised ordinance would potentially allow for up to three deviations from the bulk and scale regulations of the underlying zones without requiring the project to process a discretionary permit. The deviation(s) allowed would be on a case-by-case basis, and could include deviations from the underlying zone requirements related to height, lot size, FAR, and setbacks. The allowed deviations and additional density could result in structures that are larger and taller than surrounding buildings, closer to adjacent structures and roadways, and/or cover a larger portion of the property. These differences may result in direct impacts on neighborhood character and aesthetics. Larger structures also have the potential to block public views. Construction of several projects with bulk and scale deviations in any one area may also result in localized cumulative visual quality impacts.

Mitigation

Ministerial projects are not subject to CEQA, and such projects would not undergo environmental review or be required to provide mitigation. However, specific mitigation measures would be determined on a case-by-case basis for any future projects that go through the discretionary environmental review process. It is anticipated that impacts related to aesthetics may be mitigable through architectural treatments, such as façade articulation and building textures and colors. Substantial view blockages could not be mitigated. Severe contrast with community character resulting from increased height and bulk may be reduced through architectural treatments, but likely not to a level below significance in every case.

Significance of Impact

For discretionary projects, aesthetic impacts may be reduced to below a level of significance with appropriate mitigation. However, for ministerial projects the aesthetic impacts may not be mitigated. Direct and cumulative Visual Effects and Neighborhood Character would be considered significant and not mitigated.

Only adoption of the “No Project Alternative” would reduce visual quality impacts.

Transportation/ Parking

Significance Criteria - Traffic

As stated earlier, in analyzing a project’s potential environmental effects, staff is guided by the City’s Significance Determination Thresholds. The Traffic/Parking section of the Thresholds addresses direct traffic impacts which are projected to occur at the time a proposed development or associated developments become operational, and cumulative traffic which is projected to occur at some point after the development or associated developments become operational in the future. According to the Thresholds, intersections and roadway segments affected by a project with a current level of service (LOS) D or better are considered acceptable under both direct and cumulative conditions. For undeveloped locations the goal is to achieve a LOS of C. If any intersection, roadway segment, or freeway segment affected by a project would operate at LOS E or F under direct or cumulative conditions, the impact would be significant if the project exceeds LOS thresholds for freeways, roadway segments, intersections or ramp metering.

Significance Criteria – Parking

In addition, the City’s Significance Determination Thresholds address parking deficiencies that may constitute a significant impact. Parking deficiencies of more than ten percent would also need to substantially impact an adjacent residential area or severely impede the accessibility of a public facility to be determined significant.

Impact Conclusion of the LDC EIR

The LDC EIR anticipated that there might be increased development due to the reduced complexity of the land development regulations. This development could be accompanied by a corresponding increase in traffic on already overcrowded streets and potential reductions in LOS at existing intersections. Therefore, the EIR concluded that the adoption of the LDC could result

in future development that could incrementally increase the potential for cumulatively significant traffic impacts.

The LDC EIR anticipated a reduction in parking in transit areas and for very low income housing projects but concluded that the patterns and intensity of growth were not proposed to be changed and, therefore, overall parking demand would not be significantly increased by the implementation of the LDC. The LDC EIR concluded that the project would not have a significant adverse impact on the amount of parking required in the city nor on the area required to meet parking demands.

Impact - Proposed Density Bonus Ordinance Revisions

The increased density resulting from the proposed revisions to the City's Density Bonus Ordinance could result in maximum densities of 35 percent over the existing zoning for qualified projects; and, if requested by the applicant, reduced parking standards with options to include tandem or uncovered parking (Please see Attachment C). In addition, projects within the Transit Area Overlay Zone currently receive 10 to 20 percent parking reductions (LDC Section §142.0525), and those projects providing very low income housing already receive reductions of 10 to 20 percent of the required parking or 50 percent for very low income single room occupancy hotels (LDC Section §142.0530). The implementation of the ordinance could exacerbate existing transportation congestion.

Significance of Impact

The density achieved with the implementation of this ordinance could result in new potentially significant direct and cumulative parking impacts. In addition, the project could result in new direct transportation impacts and would add to the cumulative impacts already identified in the LDC EIR.

Only the adoption of the "No Project Alternative" would reduce parking and transportation impacts.

Health and Safety

In general, the City's community plans incorporate elements that specify or plan for adequate public services and facilities to accommodate the specific densities within each community. However, the proposed ordinance revisions would allow individual project densities over and above the current zoning and community plans. While density bonus projects would be assessed facilities benefit or impact fees to pay for their share of the required facilities, it is possible that the adoption of the proposed ordinance could contribute to current or future public service deficiencies. The ordinance includes language that states that any proposed additional development incentives or concessions (deviations) would not be granted if they could result in a threat to public health and safety. This provision is a necessary finding for denying the development incentive (deviation).

Public Services and Facilities

According to State Senate Bill 435, "It is the intent of the Legislature that local governments encourage, to the maximum extent practicable, the location of housing development pursuant in

urban areas with adequate infrastructure to serve the housing per Section 65915 of the California Government Code.”

Impacts to public services and facilities are evaluated in light of whether or not the deficiency in facilities would result in a physical change in the environment related to the construction or alteration of the facility. CEQA specifically addresses physical impacts to the environment (CEQA Sections 15126 (a) and 15382). If a project does not include the construction of public facilities which cause a physical impact to the environment then a significant environmental impact would not result. It is not anticipated that substantial changes in development or growth patterns, density or type of allowable residential developments would occur as a result of the adoption of this ordinance. This is due to the limited historical use of the existing state density bonus ordinance (which comprises a majority of the proposed ordinance) and the built-in limits to the density increases that would be allowed.

Other Potential Impacts

Future density bonus units are not expected to exceed the cumulative impacts to Soils/Erosion Hazard, Air Quality, Hydrology/Water Quality, Biological Resources, Land Use, Transportation/Circulation, Landform Alteration, Historical Resources, and Paleontological Resources that were already analyzed and disclosed in the Land Development Code EIR.

Conclusion

The proposed revisions could result in new direct and cumulative significant environmental impacts requiring that the decisionmaker adopt Findings and a Statement of Overriding Considerations.

IV. ALTERNATIVES

No Project Alternative: This alternative would not bring the City’s ordinance into compliance with State law. It would not end the current process in which staff evaluates individual projects using the existing ordinance with State regulations superceding when there is a conflict. This alternative would not include the City’s proposed 10 percent on-site ministerial inclusionary density bonus incentive or the City’s proposed 20 percent density bonus for moderate income ownership units. Since the State law is already in effect, this alternative would not result in any additional environmental impacts. The no project alternative is considered to be infeasible because it does not meet the project goal of increasing the supply of affordable housing by bringing the City’s ordinance into compliance with state law and providing two additional provisions specific to San Diego.

Elimination of the City’s On-Site Inclusionary Unit Density Bonus: This alternative would eliminate the City’s suggested density bonus which would provide a 10 percent ministerial density bonus for projects that build inclusionary units on-site rather than paying their in-lieu inclusionary housing fee. This on-site inclusionary provision has been added to the LDC to enhance the efforts of the inclusionary housing program by helping to assure that inclusionary units were built, and since the payment of in-lieu fees has not resulted in the development of equivalent housing at alternative sites. The removal of this density bonus could reduce potential impacts to visual quality, transportation and parking since fewer units may be built at the proposed sites. The incorporation of this provision is anticipated to have a minor impact because of the size of the

density bonus (10 percent) and because no additional density bonus or incentives would be offered to projects within this category.

This alternative may result in fewer unmitigated direct visual quality and transportation/parking impacts and is therefore considered environmentally preferred. Cumulative impacts would remain significant. This alternative is considered to be infeasible because it does not meet the project goal of increasing the supply of affordable housing by enacting an on-site inclusionary bonus provision.

Elimination of the City's 20 Percent Density Bonus for Moderate Income Ownership Units:

This alternative would eliminate the City's proposed minimum 20 percent density bonus for common interest moderate income ownership units. The elimination of this incentive would reduce the number of affordable moderate income ownership housing units built because it is anticipated that the five percent density bonus proposed by state law would not be sufficient to attract such development in San Diego's high land cost market. The elimination of this incentive would reduce but not eliminate potential impacts to visual quality and transportation/parking since the other regulatory incentives or concessions would still be available. This alternative may result in direct impacts which may not be reduced to below a level of significance in every case. Cumulative impacts would remain significant. This alternative is considered to be infeasible because it does not meet the project goal of increasing the supply of affordable housing by enacting a 20 percent density bonus provision for moderate income ownership units.

V. DETERMINATION:

The City of San Diego previously prepared an Environmental Impact Report (EIR) No. 96-0333 for revisions to the Land Development Code. Based upon a review of the current project, it has been determined that the revisions to the Density Bonus Ordinance may result in significant effects not discussed in the previous EIR.

Therefore, in accordance with Sections 15163 and 15164 of the State CEQA Guidelines, this Supplement EIR has been prepared.

VI. MITIGATION, MONITORING AND REPORTING PROGRAM INCORPORATED INTO THE PROJECT:

No mitigation is required for these proposed revisions to the Land Development Code. As development occurs, individual discretionary projects would be subject to environmental review, impact analysis, and identification of project-specific mitigation measures.

VII. SIGNIFICANT UNMITIGATED IMPACTS:

The final EIR for the original project identified significant unmitigated impacts in the following areas: Land Use, Biological Resources, Landform Alteration, Historical Resources, Paleontological Resources, and Human Health and Public Safety. Cumulative impacts were also identified to Soils/Erosion Hazard, Air Quality, Hydrology/Water Quality, Biological Resources, Land Use, Transportation/Circulation, Landform Alteration, Historical Resources, and Paleontological Resources. Significant effects previously examined would not be substantially more severe than shown in the previous EIR. However, the proposed revisions to the Density

Bonus Ordinance have the potential to result in significant impacts to visual quality and transportation/parking, as well as cumulative impacts to visual quality and parking.

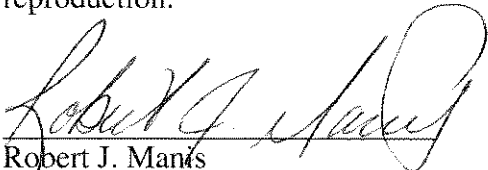
Because there are new significant unmitigated direct and cumulative impacts associated with future development in conformance with the proposed revisions, approval requires the decision-maker to make specific and substantiated CEQA Findings which state that:

- a) specific economic, social or other considerations make infeasible the project alternatives identified in the Supplement EIR; and
- b) the impacts have been found acceptable because of specific overriding considerations. Approval of the project requires the decisionmaker to adopt the Findings and a Statement of Overriding Considerations.

VIII. RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but they did not address the draft Supplement findings or the accuracy/completeness of the Initial Study. No response is necessary. The letters and responses follow.
- () Comments addressing the findings of the draft Supplement EIR and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft Supplement EIR, EIR No. 96-0333, and any technical appendices may be reviewed in the office of the land Development Review Division, or purchased for the cost of reproduction.



Robert J. Manis
Deputy Director
Development Services Department

May 16, 2007
Date of Draft Report

Date of Final Report

Analyst: Mirrasoul

Attachments:

Attachment A: Conclusions of Final EIR No. 96-0333
Attachment B: Draft Affordable Housing Density Bonus Regulations
Attachment C: Parking Table

PUBLIC REVIEW:

The following individuals, organizations, and agencies received a copy and/or public notice of the draft Supplement and were invited to comment on its accuracy and sufficiency. The public notice contains a link to the Development Services Department website to a copy of the notice and the environmental document.

Federal Government

US Marine Corps (3) & (13)
Naval Facilities Engineering Command (12)
US Environmental Protection Agency (19)
U.S. Fish and Wildlife Service (23)
U.S Army Corps of Engineers (26)

State of California

Caltrans, District 11 (33)
Department of Fish and Game (32)
Department of Parks and Recreation (40)
Department of Parks and Recreation, Office of Historic Preservation (41)
State Clearinghouse (46A)
Resources Agency (43)
California Coastal Commission (47)
California State Coastal Conservancy (54)
Native American Heritage Commission (56)

San Diego County

Department of Planning and Land Use (68)
County Water Authority (73)
Department of Environmental Health (75)

City of San Diego

Elected Officials

Mayor Sanders
Council President Peters, District 1
Councilmember Faulconer, District 2
Councilmember Atkins, District 3
Councilmember Young, District 4
Councilmember Maienschein, District 5
Councilmember Frye, District 6
Councilmember Madaffer, District 7
Councilmember Hueso, District 8
City Attorney Aguirre, Shirley Edwards

Departments

Development Services Department
LDR Engineering (MS 501) – Don Weston
LDR EAS (MS 501) – Marilyn Mirrasoul
Code Monitoring Team – Dan Joyce
LDR Transportation (MS 501) – Labib Qasem, Ann Gonsalves

City Planning & Community Investment Department (MS 5A)
Park & Recreation Department (89)
Wetland Advisory Board (91A)

City Agencies

San Diego Housing Commission (MS 49N)
City of San Diego Redevelopment Agency (MS 904)
Centre City Development Corporation (MS 51D), Brad Richter and Dale Royale
Southeastern Economic Development Corporation (448)

Commissions

Planning Commission (MS 401)

Advisory Boards

Small Business Advisory Board (MS 904)
Historical Resources Board (87)

Libraries

Balboa Branch Library (81B)
Beckwourth Branch Library (81C)
Benjamin Branch Library (81D)
Carmel Mountain Ranch Branch (81E)
Carmel Valley Branch Library (81F)
City Heights/Weingart Branch Library (81G)
Clairemont Branch Library (81H)
College-Rolando Branch Library (81I)
Kensington-Normal Heights Branch Library (81K)
La Jolla/Riford branch Library (81L)
Linda Vista Branch Library (81M)
Logan Heights Branch Library (81N)
Malcolm X Library & Performing Arts Center (81O)
Mira Mesa Branch Library (81P)
Mission Hills Branch Library (81Q)
Mission Valley Branch Library (81R)
North Clairemont Branch Library (81S)
North Park Branch Library (81T)
Oak Park Branch Library (81U)
Ocean Beach Branch Library (81V)
Otay Mesa-Nestor Branch Library (81W)
Pacific Beach/Taylor Branch Library (81V)
Paradise Hills Branch Library (81Y)
Point Loma/Hervey Branch Library (81Z)
Rancho Bernardo Branch Library (81AA)
Rancho Peñasquitos Branch Library (81BB)
San Carlos Branch Library (81DD)
San Ysidro Branch Library (81EE)
Scripps Miramar Ranch Branch Library (81FF)
Serra Mesa Branch Library (81GG)
Skyline Hills Branch Library (81HH)
Tierrasanta Branch Library (81II)
University Community Branch Library (81JJ)
University Heights Branch Library (81KK)
Malcolm A. Love Library (457)

Community Service Centers

Clairemont (274)
Navajo (337)
Peninsula (389)
Rancho Bernardo (399)
San Ysidro (435)
Scripps Ranch (442)

Other Agencies

San Diego Association of Governments (108)
San Diego Transit (12)
Semptra (114)
MTDB (115)
San Diego County Regional Airport Authority (110)

Community Groups, Associations, Boards, Committees and Councils

Community Planners Committee (194)

Community Planning Groups

Centre City Advisory Committee (243)
Otay Mesa - Nestor Planning Committee (228)
Otay Mesa Planning Committee (235)
Clairemont Mesa Planning Committee (248)
Greater Golden Hill Planning Committee (259)
Serra Mesa Planning Group (263A)
Kearny Mesa Community Planning Group (265)
Linda Vista Community Planning Committee (267)
La Jolla Community Planning Association (275)
City Heights Area Planning Committee (287)
Kensington-Talmadge Planning Committee (290)
Normal Heights Community Planning Committee (291)
Eastern Area Planning Committee (302)
Midway Community Planning Advisory Committee (307)
Mira Mesa Community Planning Group (310)
Mission Beach Precise Planning Board (325)
Mission Valley Unified Planning Organization (331)
Navajo Community Planners Inc. (336)
Carmel Mountain Ranch Community Council (344)
Carmel Valley Community Planning Board (350)
Del Mar Mesa Community Planning Board (361)
Greater North Park Planning Committee (363)
Ocean Beach Planning Board (367)
Old Town Community Planning Committee (368)
Pacific Beach Community Planning Committee (375)
Rancho Peñasquitos Planning Board (380)
Peninsula Community Planning Board (390)
Rancho Bernardo Community Planning Board (400)
Sabre Springs Community Planning Group (407)
San Pasqual - Lake Hodges Planning Group (426)
San Ysidro Planning and Development Group (433)
Scripps Ranch Community Planning Group (437)
Miramar Ranch North Planning Committee (439)
Skyline - Paradise Hills Planning Committee (443)
Torrey Hills Community Planning Board (444A)

Southeastern San Diego Planning Committee (449)
Encanto Neighborhoods Community Planning Group (449A)
College Area Community Council (456)
Tierrasanta Community Council (462)
Torrey Pines Community Planning Group (469)
University City Community Planning Group (480)
Uptown Planners (498)

*Town/Community Councils *(Public Notice Only)*

Clairemont Town Council (257)
Serra Mesa Community Council (264)
Rolando Community Council (288)
Oak Park Community Council (298)
Webster Community Council (301)
Darnell Community Council (306)
La Jolla Town Council (273)
Mission Beach Town Council (326)
Mission Valley Community Council (328 C)
San Carlos Area Council (338)
Ocean Beach Town Council, Inc. (376 A)
Pacific Beach Town Council (374)
Rancho Penasquitos Community Council (378)
Rancho Bernardo Community Council, Inc. (398)
Rancho Penasquitos Town Council (383)
United Border Community Town Council (434)
San Dieguito Planning Group (412)
Murphy Canyon Community Council (463)

*Community Associations/Committees *(Public Notice Only)*

North Park Community Association (366)
Normal Heights Community Center (293)
Normal Heights Community Association (292)
La Jollans for Responsible Planning (282)
Mission Hills Association (327)
La Jolla Shores Association (272)
Southeastern San Diego Development Committee (449)
Arroyo Sorrento Homeowners Association (356)
Burlingame Homeowners Association (364)
Crown Point Association (376)
Torrey Pines Association (379)
The San Dieguito Lagoon Committee (409)
Scripps Ranch Civic Association (440)
Torrey Pines Association (472)
Crest Canyon Citizens Advisory Committee (475)
University City Community Association (486)
Hillside Protection Association (501)
Allen Canyon Committee (504)

Other Interested Parties *(Public Notice Only)

San Diego Apartment Association (152)
San Diego Chamber of Commerce (157)
Building Industry Association/Federation (158)
San Diego River Park Foundation (163)
Sierra Club (165)

San Diego Natural History Museum (166)
 San Diego Audubon Society (167, 167A)
 California Native Plant Society (170)
 Center for Biological Diversity (176)
 San Diego River Conservancy (168)
 Environmental Health Coalition (169)
 Endangered Habitats League (182 & 182A)
 Carmel Mountain Conservancy (184)
 Torrey Pines Association (186)
 AIA (190)
 League of Women Voters (192)
 Carmen Lucas (206)
 Dr. Jerry Schaefer (208A)
 South Coastal Information Center (210)
 San Diego Historical Society (211)
 San Diego Archaeological Center (212)
 Save Our Heritage Organization (214)
 San Diego County Archaeological Society Inc. (218)
 La Jolla Historical Society (221)
 Tecolote Canyon Citizens Advisory Committee (254)
 Friends of Tecolote Canyon (255)
 Tecolote Canyon Rim Owner's Protection Association (256)
 Marian Bear Natural Park Recreation Council (267 A)
 UCSD Natural Reserve System (284)
 Friends of the Mission Valley Preserve (330)
 Mission Trails Regional Park Citizens Advisory Committee (341)
 Los Peñasquitos Canyon Preserve Citizens Advisory Committee (360)
 Friends of Rose Canyon (386)
 Pacific Beach Historical Society (377)
 Sunset Cliffs Natural Park Recreation Council (388)
 San Dieguito River Park CAC (415)
 San Dieguito River Valley Conservancy (421)
 RVR PARC (423)
 Mission Trails Regional Park (465)
 Friends of Los Peñasquitos Canyon Preserve, Inc., (313)
 Tijuana River National Estuarine Reserve (229)
 Tijuana's Municipal Planning Institute
 San Dieguito River Park (116)
 San Diego Regulatory Alert (174)
 League of Conservation Voters (322)
 Citizens Coordinate for Century III (324 A)
 River Valley Preservation Project (334)
 Friends of Adobe Falls (335)
 Carmel Valley Trail Riders Coalition (351)
 Carmel Mountain Conservancy (354)
 Friends of San Dieguito River Valley (419)
 Beeler Canyon Conservancy (436)
 San Diego Board of Realtors (155)
 San Diego Convention and Visitors Bureau (159)
 CalPIRG (154)
 San Diego Baykeeper (173)
 San Diego Civic Solutions (*Canyonlands*)

Supplemental E-mail Distribution List

The public notice was e-mailed to the City of San Diego Planning Department Housing Issues Interest List with a link to the City's website copy of the public notice and addendum.

Attachment A: Conclusions of Final EIR No. 96-0333

City of San Diego
Development
Services
Department



Land Development
Review Division
(619) 236-6460

Environmental Impact Report

DEP No. 96-0333
SCH No. 96081056

SUBJECT: Land Development Code. Various CITY COUNCIL actions including the ADOPTION of the proposed Land Development Code to be incorporated as Chapters 12, 13 and 14 of the Municipal Code; AMENDMENT and RE-ADOPTION of previously adopted Chapter 11; REPEAL and AMENDMENT of certain chapters of the Municipal Code, including Chapter 10 and portions of Chapters 2, 5, 6 and 9; AMENDMENT of the non-conforming use and premises regulations and renaming to "previously conforming" uses and premises; AMENDMENT of the Local Coastal Program implementing ordinances and other documents in the Local Coastal Program; ADOPTION of categorical exclusions within the Coastal Zone; MODIFICATION of existing planning and zoning support documents and ADOPTION of new support documents; AMENDMENT of zone regulations; and READOPTION of the Uniform Building Code, the National Electrical Code, the Uniform Mechanical Code and the Uniform Plumbing Code.

Applicant: City of San Diego.

CONCLUSIONS:

Subsequent to preparation of the Draft EIR and distribution of the Final EIR, revisions to the proposed Land Development Code and Land Development Manual have been made. A summary of the revisions is provided in the Preface to the Final EIR following these conclusions. In addition, several comment letters received on the Draft EIR contained accepted revisions which resulted in changes to the Final EIR text. The revision to the project and Final EIR do not include significant new information and would not result in a new significant environmental impact or a substantial increase in the severity of an environmental impact and do not include a new feasible project alternative that would lessen the environmental impacts of the project. Therefore, recirculation of the EIR is not required consistent with CEQA (Public Resources Code section 21092.1) and section 15088.5 of the State CEQA Guidelines.

The Municipal Code is an important tool for implementation of the City's Progress Guide and General Plan. Currently the planning, zoning, engineering and building regulations are located throughout Chapters 2, 5, 6, 9, 10, and 11 of the Municipal Code. The proposed Land Development Code is the location within the Municipal Code for definitions, procedures, zones, and regulations which are used in the development of property other than within the planned districts.

The Municipal Code was revised in 1991 to add Chapter 11 as Phase I of a comprehensive update. The first phase streamlined and reduced the processing

procedures for development actions and standardized the application and noticing requirements. The current proposed project is the second phase of the comprehensive update and includes revisions and reformat of several chapters of the Municipal Code relative to the development process.

The proposed Land Development Code consolidates all development regulations into a sequence of four chapters of the Municipal Code. Technical manuals, standards and guidelines are being consolidated into a Land Development Manual. The Planned Districts have not been substantively revised as part of the proposed project and remain in Chapter 10 of the Municipal Code.

In reports to the City Council, the City Manager identified the overall goals of the Code update project:

Clarity

To write land development regulations which are easy to understand

Objectivity:

To write land development regulations that mean the same thing to everyone

Consistency:

To eliminate contradictions among all land development regulations

Predictability:

To make it clear what land development regulations apply to a project and what to expect from following them

Simplicity:

To reduce the complexity of land development regulations

Adaptability:

To allow for tailoring of land development regulations to fit unique features of the City

Progressiveness:

To use new ideas while retaining the best of existing land development regulations

Integrity:

To develop a code framework which is standardized but which is flexible enough to accommodate future changes

The proposed Code includes changes to existing citywide zones: name changes; changes to permitted uses; and changes to development regulations. There are several new zones that are created to implement existing land use policy; however these new zones would not be applied until: requested by a property owner; proposed as part of a land use plan adoption process; or proposed as part of land use plan consistency rezoning.

There are several proposed procedural changes. The revisions to use regulations include revisions to accessory use regulations. There are proposed revisions to Decision Process 2 which include making it a discretionary review and approval process. Proposed revisions to permit types include reducing the number from more than 80 to 14; variance procedures remain unchanged. The project proposes changes to the regulations for previously conforming uses and premises.

The proposed project includes changes to the development regulations as part of the zone changes. In addition, the project proposes changes to resource protection regulations: there are new Environmentally Sensitive Lands Regulations

which protect sensitive biological resources and hillsides, coastal bluffs and beaches and wetlands. The project includes proposed Historical Resource Regulations, revisions to the Parking Regulations, and revisions to the Landscape regulations.

This EIR analyzes the potential effects to existing on-the-ground conditions if the proposed project were to be implemented. The analysis does not include a comparison between the existing regulations and the effects of implementation of the proposed regulations (plan-to-plan analysis). Descriptions of the existing regulations are included in both Chapter II, Environmental Setting, and Chapter III, Project Description of the attached EIR.

Natural Communities Conservation Plan

On March 25, 1993, the U.S. Fish & Wildlife Service listed the California gnatcatcher as a threatened species under the federal Endangered Species Act (ESA). On December 10, 1993, the federal ESA Section 4(d) rule became effective, affecting projects at all stages of the development process. Where future projects include take of California gnatcatcher and/or its habitat, a permit will be required: either from the USFWS (pursuant to ESA section 7 or 10(a)), or from the City (pursuant to ESA section 4(d)). The Section 4(d) permit process is tied to the state's Natural Communities Conservation Program (NCCP).

The City is enrolled as a participating agency in the state's NCCP, which requires tracking of impacts on coastal sage scrub habitat. (The City's Multiple Species Conservation Program has been accepted by the state as an equivalent to the NCCP.) The NCCP allows the City to approve the loss of up to five percent of existing coastal sage scrub habitat. Approval must also comply with the state NCCP Process Guidelines, which require findings relative to the affect on regional preserve planning, and require that mitigation be adopted. The NCCP Conservation Guidelines have indicated that a five percent loss of coastal sage scrub habitat is acceptable within any individual subregion during the preparation of a subregional NCCP or its equivalent (e.g. MSCP Subarea Plan). Within the City of San Diego, the five percent cumulative loss allowed is 1186 acres of coastal sage scrub.

Total loss allowed:	1186.00 acres
Cumulative actual loss to date:	488.85 acres
Loss due to this project:	0.00 acres
Total cumulative loss:	488.85 acres
Remaining loss allowed:	697.15 acres

Note: Planned loss to date (i.e. approved projects for which grading permits have not yet been obtained) is 530.57 acres.

Approval of the proposed project does not constitute approval of an actual specific development project whereby there would be known loss of coastal sage scrub. Future development in accordance with the proposed regulations would require a permit, either through the City or through the USFWS if loss of coastal sage scrub would result from the proposed activities.

Multiple Species Conservation Program

The Draft Multiple Species Conservation Program (MSCP) is a comprehensive habitat conservation planning program which addresses the habitat needs for 87 covered species and the preservation of natural communities for a 900-square mile area in southwestern San Diego County. The proposed preserve system would replace the currently fragmented, project-by-project biological mitigation areas, which by themselves do not contribute adequately to the continued existence of sensitive species or the maintenance of natural biodiversity. The program creates a process for the issuance of federal and state permits and other authorizations according to the state and federal Endangered Species Acts and the NCCP Act of 1991.

Several of the elements of the proposed project are designed to implement the MSCP. The Environmentally Sensitive Lands Regulations, the Biology Guidelines, and the OR-1-2 zone contain regulations for the protection of sensitive biological resources as identified in the City's Subarea Plan for the MSCP.

The issue of the proposal's effect on long-term conservation of biological resources is analyzed in terms of meeting the goals and objectives of the Multiple Species Conservation Program. Thus, only target species are considered with regard to long-term adverse effects on conservation. This EIR provides no independent analysis whether the design of the MSCP preserve will achieve long-term conservation. The analysis of that issue is provided in the EIR for the MSCP. This EIR uses as a baseline assumption the conclusion of the MSCP EIR that the preserve design and the associated implementation program is adequate for long-term conservation of the covered species. Thus there are two parts of the analysis in this EIR with regard to long-term conservation of biological resources: (1) whether the proposed project adequately achieves the goals and objectives of the MSCP for long-term conservation of covered species and (2) how non-covered species will be affected by the proposed regulations.

Alternatives

There are four alternatives analyzed in the EIR. Alternative 1 is the No Project alternative. Alternatives 2 and 3 concern resource protection regulations and Alternative 4 describes language alternative to the proposed regulations, which, if adopted would avoid or lessen impacts of the proposed project. Therefore, Alternative 4 is environmentally superior to the proposed project. The project alternatives are described more fully below and in Chapter VIII of the EIR.

SIGNIFICANT IMPACTS

Implementation of the proposed Land Development Code would result in unavoidable impacts: those effects which would result from implementation of a project as proposed in spite of the best efforts to minimize environmental effects. Since the proposed project is limited to ordinance language, guidelines and standards, there are no conditions of approval upon which to attach mitigation measures. The only way to avoid the potentially significant effects, as identified in the attached EIR, is through the adoption of one or more alternatives. The following have been identified as potentially significant effects of implementation of the proposed project.

Land Use: inconsistency with environmental goals of adopted land use plans relative to the protection of important and sensitive resources; loss of important agricultural land and mineral resources due to regulations for implementation of the Multiple Species Conservation Program preserve.

Biological Resources: lack of wetland buffer regulations; potentially significant losses of populations of species not covered by the MSCP preserve design and the City's Subarea Plan; potential preclusion of adequate wildlife corridors for species not covered by the MSCP preserve design and the City's Subarea Plan.

Landform Alteration: loss of existing natural landforms, which are considered sensitive resources, through future grading consistent with the regulations of the proposed Code.

Historical Resources: loss of archaeological resources and historical buildings, structures, objects and landscapes consistent with regulations of the proposed Code.

Paleontological Resources: the proposed regulatory scheme does not provide for detection, investigation, collection or preservation of paleontological resources; therefore, there could be a significant loss of resources where projects are not subject to environmental review.

Human Health and Public Safety: potential impacts related to mosquito-borne diseases as mosquito breeding may increase due to drainage/sediment control structures required by the proposed regulations.

In addition to the effects directly attributable the project (project-specific impacts), the project would result in effects on an incremental basis, which when added to other past, present, and reasonably foreseeable future projects would be cumulatively significant. The following are effects of the project which would incrementally contribute to an impact that would, in combination with other effects, be cumulatively significant.

Soils/Erosion Hazard: New development anticipated to occur in accordance with the proposed project would result in increased erosion from exposed soil areas; the resulting sediment ultimately affects downstream wetland and lagoon areas.

Air Quality: There would be new development in accordance with the proposed regulations which would result in increased emissions from traffic and commercial and industrial activities.

Hydrology/ Water Quality: The proposed regulations do not include provisions to control volume or pollutant tolerance levels of runoff from urban areas. With a greater amount of impervious area, there is increased runoff and increased volume of pollutants carried by the runoff.

Biological Resources: There would be losses of species currently identified as sensitive, as well as loss of populations not currently identified as sensitive;

increased pressure to develop outside the MSCP preserve would have cumulatively significant effects on biodiversity and population levels.

Land Use: With development pressure shifted to areas not within the MSCP preserve, there may be increased urbanization or intensification of land use not presently subject to these kinds of development pressures. This pressure could result in potentially significant secondary and cumulative impacts on historical, biological and landform resources.

Transportation/Circulation: New development in accordance with the proposed regulations would increase traffic volumes in the City; the incremental increases in traffic as a result of future projects would be cumulatively significant.

Landform Alteration: The proposed regulations would result in loss of landforms including hillsides; the incremental loss of these unique landscape features would be cumulatively significant.

Historical Resources: Development pressure from implementation of biological conservation programs may result in development of areas with significant historical resources that may otherwise have been left undisturbed; the incremental losses of historical resources would be cumulatively significant.

Paleontological Resources: Since the proposed project contains no regulations to protect paleontological resources, fossil resources would only be detected and researched when development projects are subject to environmental review. There would be incremental losses of fossil resources both because there are no regulatory protections, and due to development that is likely to occur in accordance with the proposed regulations.

ALTERNATIVES FOR SIGNIFICANT IMPACTS:

There are four project alternatives that would avoid or lessen the significant impacts identified above. These alternatives are described in greater detail in Chapter VIII of the attached EIR.

1. No Project

According to this alternative, the City Council could reject in full the proposed Land Development Code and not take the associated actions. This alternative would result in a continuation of existing zoning and regulations.

If this alternative is adopted, the goals of the zoning code update project would not be met. The proposed changes to the Code which would make it easier to understand and use would not be effected and the benefit of a more uniform organization of regulations would not be realized.

2. Alternative Biological Resource Protection

According to this alternative, the specific elements of the proposed project which would implement the Draft MSCP would not be adopted; however, all the other elements of the proposed resource protection regulations would be retained and adopted. That is, the following proposed regulations would remain: the hillside regulations; the landscaping regulations; the historical resource regulations; regulations for development in floodplains and sensitive coastal resource areas;

and coastal beaches and bluffs regulations. As proposed, the protection for wetland buffers would be eliminated.

This alternative includes elimination of the distinction between lands within the MSCP preserve and outside the preserve boundary. This alternative would most closely approximate the biological resource protection regulations that exist currently. Protection of sensitive biological resources would be achieved by applying citywide biological resource protections that are proposed to apply only in the MSCP preserve.

Adoption of this alternative would mean that the MSCP would not be implemented. Protection of biological resources would continue to be effected in a piecemeal fashion, rather than being directed toward a large contiguous landholding as a preserve.

3. Retain Existing Resource Protection Regulations

With this alternative, all of the proposed resource regulations would be rejected, including the Environmentally Sensitive Lands Regulations, the Historical Resource Regulations, the OR-1-2 Zone, and portions of the Biological Guidelines. The existing regulations would be retained, including Resource Protection Ordinance, the Sensitive Coastal Resource Overlay Zone, and the Hillside Review Overlay Zone. The protection of wetland buffers would be retained.

This alternative would avoid impacts to sensitive biological, hillside and historical resources that would occur with implementation of the proposed project.

4. Alternative Language for Specific Sections of the Proposed Project

Since the project is primarily changes to ordinances, guidelines and standards, there are no conditions of approval upon which to attach mitigation measures. Thus, avoidance of significant impacts of the proposed regulatory schema can be achieved by revising the regulatory language such that significant effects would not result. This alternative provides, in concept, regulatory language that would avoid the impacts in the areas of paleontological resources, historical resources, biological resources (wetlands and wetland buffers), and human health/public safety.

Unless project alternatives are adopted, project approval will require the decision-maker to make Findings, substantiated in the record, which state that: a) project alternatives are infeasible, and b) the overall project is acceptable despite significant impacts because of specific overriding considerations.

Lawrence C. Monserrate
Lawrence C. Monserrate
Principal Planner
Development Services Department

December 6, 1996
Date of Draft Report

April 8, 1997
Date of Final Report

Analyst: Baker

September 12, 1997
Date of Revised Final Report

PUBLIC REVIEW:

The following individuals, organizations, and agencies received a copy or notice of the draft EIR and were invited to comment on its accuracy and sufficiency:

City of San Diego

Mayor Susan Golding (MS 11A)
Councilmember Mathis, District 1 (MS 10A)
Councilmember Wear, District 2
Councilmember Kehoe, District 3
Councilmember Stevens, District 4
Councilmember Warden, District 5
Councilmember Stallings, District 6
Councilmember McCarty, District 7
Councilmember Vargas, District 8
Community and Neighborhood Services Bus. Ctr. - Betsy McCoullough (MS 4A)
Community and Neighborhood Services Bus. Ctr. - Nancy Acevedo (MS 37)
Public Works Bus. Ctr. - Frank Belock (MS 9B)
Public Works Bus. Ctr. - Richard Hayes (MS 1102-A)
Public Works Bus. Ctr. - Mike Steffen (MS 51A)
Community & Economic Development - Kurt Chilcott (MS 9A)
Park & Recreation - Marcia McLatchy (MS 9A)
Assistant City Manager - Penelope Culbreth-Graft (MS 9A)
Deputy City Attorney Prescilla Dugard (MS 59)
Development Services - Tina Christiansen (MS 9A)
Wetlands Advisory Board - Robin Stribley (MS 37C)
Public Works Bus. Ctr. - Cruz Gonzales (MS 9B)
Public Works Bus. Ctr. - Susan Hamilton (MS 905)

Federal Agencies

SW Division, Naval Facilities Engineering Command (12)
NAS Miramar (14)
USMC - Col. Pender, Marine Air Base, El Toro
Army Corps of Engineers (26)
Border Patrol, William Pink (22)
Fish and Wildlife Service (23)
Department of Agriculture (25)
Bureau of Land Management, 6221 Box Springs Boulevard, Riverside, CA 92507
EPA Region 9
Marc Ebbib, Dept. Interior, Asst. to Secretary
600 Harrison Street #545, San Francisco, CA 94107

Vicki Kingslien, Director, Resource Management Division,
425 "I" Street NW #2060, Washington D.C. 20536
Tom Stahl, Asst. U.S. Attorney, 880 Front Street #6293, San Diego 92101
Pete Stine, National Biological Survey, 1920 20th Street
Sacramento, CA 95514
Lynn Cox, Office of the Solicitor, Dept. Interior, 2800 Cottage Way #2753
Sacramento, CA 95628

State of California

- California Coastal Commission (47, 48)
- State Clearinghouse (46)
- CALTRANS (31)
- Fish and Game (32)
- Park and Recreation (40)
- Regional Water Quality Control Board (44)
- Native American Heritage Commission (56)
- Department of Conservation (61)
- Lands Commission (62)
- Forestry
- Office of Historic Preservation

County of San Diego

- Board of Supervisors, Chair, 1700 Pacific Highway, San Diego 92101
- DPLU- Tom Oberbauer (MS-065)
- Public Works - Tom Garibay (MS 0336)
- Parks and Recreation - Mike Kemp (MS -065)
- Agriculture (MS -01)
- Environmental Services Unit - Anna Noah (MS -0385)
- County Health Department

Cities

- Chula Vista (94)
- Del Mar (96)
- El Cajon (98)
- Escondido (98)
- Imperial Beach (99)
- La Mesa (100)
- Lemon Grove (101)
- National City (102)
- Poway (103)
- Santee (104)
- Solana Beach (105)
- Carlsbad, 1200 Carlsbad Village, 92008
- Encinitas, 505 S. Vulcan, 92024
- Oceanside, 300 N. Hill St. 92054
- San Marcos, 1 Civic Ctr. Dr., 921-69
- Vista, P.O. Box 1988, 92085
- Coronado (95)

The Public Notice and/or Draft EIR is also distributed to the:

- MSCP Working Group
- Zoning Code Update Citizens' Advisory Committee
- Zoning Code Update Mailing List
- Recognized Community Planning Groups
- Main and Branch City Libraries

Other Interested Parties

- County Water Authority (73)
- San Diego Association of Governments (108)
- San Diego Gas & Electric (114)

San Dieguito River Park JPA (116)
 UCSD Library (134)
 Sierra Club (165)
 S. D. Natural History Museum (166)
 San Diego Audubon Society (167)
 California Native Plant Society (170)
 Ellen Bauder (175)
 SW Center for Biological Diversity (176)
 Citizens Coordinate for Century III (179)
 Endangered Habitats League (182)
 San Diego Historical Society (211)
 San Diego Museum of Man (212)
 Save Our Heritage Organization (214)
 San Diego County Archaeological Society (218)
 California Indian Legal Services (225)
 San Diego City Schools, Mel Roop, 4100 Normal St., San Diego, CA 92103
 Opal Trueblood, 13014 Caminito del Rocío, Del Mar, CA 92014
 La Jolla Town Council, 1055 Wall Street, Suite 110, La Jolla, CA 92038

Copies of the draft EIR, the Mitigation Monitoring and Reporting Program and any technical appendices may be reviewed in the office of the Land Development Review Division, or purchased for the cost of reproduction.

RESULTS OF PUBLIC REVIEW:

- () No comments were received during the public input period.
- () Comments were received but the comments do not address the accuracy or completeness of the environmental report. No response is necessary and the letters are attached at the end of the EIR.
- (X) Comments addressing the accuracy or completeness of the EIR were received during the public input period. The letters and responses follow.

PREFACE TO THE FINAL EIR FOR THE PROPOSED LAND DEVELOPMENT CODE AND ASSOCIATED ACTIONS

Subsequent to preparation of the Draft EIR and distribution of the Final EIR, revisions to the proposed Land Development Code and Land Development Manual have been made. Strikeout/redline versions of the revised Code and Manual were prepared in April 1997 and the Final EIR was prepared based on those versions. The Final EIR, including a Preface describing the changes in the proposed project, was distributed in April 1997. Additional changes in the project have been made since that time as a result of public comments and direction from the Planning Commission and City Council Committee on Land Use and Housing. New strikeout/redline versions of the Land Development Code and Manual have been prepared (dated September 1997) and are available for public review. This Preface has been revised to describe all of the changes made to the project since preparation of the Draft EIR in December 1996. In addition, several comment letters on the Draft EIR contained acceptable revisions which resulted in changes in the Final EIR. The Responses to Comments indicate where revisions have been made. The Final EIR reflects revisions made in response to public comment and changes in the project. Major changes to the EIR and in the project are summarized below. The revisions to the project and Final EIR do not constitute significant new information and recirculation of the EIR is not required.

FINAL EIR

- The Biological Resources analysis was revised to delete the discussion regarding Biological Survey Reports. It was determined, subsequent to preparation of the Draft EIR, that the requirements for Biological Survey Reports would not have a significant impact on biological resources.
- Alternative 4 was expanded to include more specifics with regard to alternative regulatory language which, if adopted, would avoid or reduce the significant impacts identified with the proposed project language. The Final EIR includes greater detail on alternative language in the areas of biological resources, brush management, and landform alteration. The Final EIR does not include alternative language relating to marine industrial uses because the regulations were revised since preparation of the Draft EIR.

LAND DEVELOPMENT CODE

Chapter 11

- The Board of Zoning Appeals would consider general relief variances but would not consider Process Two appeals. The Historical Resources Board has the authority to identify specific areas that would be exempt from the requirement for a historical resources survey.
- Diagram 112-05A (Decision Processes With Notices) has been revised to reflect that community planning groups receive notice, to reformat the key for clarification, and to delete the State Coastal Commission processes. The Planning Commission would hear Process Two appeals rather than the Board of Zoning Appeals.
- Various defined terms have been added, deleted, and modified. The term Archaeological Site has been deleted. The definition of Coastal Bluff Edge has been modified to be more consistent

with the existing Municipal Code by including reference to changing downward gradient. The terms Designated Historical Resource, Historical Building, Historical District, Historical Landscape, Historical Object, Historical Structure, and Important Archaeological Site have been modified for clarity and to be consistent with the revised Historical Resources Regulations. MHPA has been added as a defined term to replace MSCP Preserve and means the multiple habitat planning areas as identified by the City of San Diego MSCP Subarea Plan. The MHPA includes areas to be preserved and areas where development may occur. MSCP Preserve was deleted as a defined term. MSCP Subarea Plan was added to describe the plan. The Sensitive Biological Resources definition was modified to delete habitat of species of special concern and California fully protected species. The term Significant Archaeological Site has been deleted. SRO Hotel Room was revised so that it may not contain a kitchen and may have shared sanitary facilities. The Wetlands definition has been revised to reflect agreements made in development of the MSCP and to add wetlands depicted on Map C-713 (coastal wetlands) to the definition.

- Various Rules for Calculation and Measurement have been modified. Bluff rounding and erosional processes were added in determining the coastal bluff edge which is consistent with the existing Municipal Code. In determining existing grade, added grade that existed on March 4, 1972 will be considered existing grade, when a premises is disturbed. The grading proposed with a tentative map will be used as existing grade when the map is approved. In determining proposed grade, the highest floor of a multi-floor basement will be used. Limitations were added to the calculation of gross floor area for enclosed space built over open, at-grade space. Clarification of regulations for measuring structure height when a basement is proposed.

Chapter 12

- Language was added to specify that a Historical Resources Board designation decision may be appealed by an applicant or interested person.
- Revisions to Neighborhood Use, Conditional Use, Neighborhood Development and Site Development procedures and permit thresholds to be consistent with changes in Chapters 13 and 14 were made. Findings for Neighborhood Use, Neighborhood Development, and Site Development permits were modified so that granting of the permit would not adversely affect the applicable land use plan. The CUP regulations were modified so that the decision maker cannot allow less restrictive regulations except through a variance process. A finding for environmentally sensitive lands was added which requires consistency with the MSCP Subarea Plan. Findings for alternative compliance for steep hillside development area regulations were added. A new finding was added for those developments that are requesting deviations as part of the Planned Development Permit. Thresholds and findings for disturbance of Class II historical resources have been deleted. The remaining supplemental findings for historical resources were revised to be consistent with revised regulations.
- Categorical Exclusions from a Coastal Development permit were deleted. An exemption was added for demolition and alteration of a structure within the coastal zone if it is not a historical resource. An exemption was added for single dwelling unit development in the coastal zone if it does not exceed 80 percent of the allowable floor area ratio and height. The decision process for Coastal Development permits was changed to Process Two in the non-appealable area and remains a Process Three in the appealable area.

- Language was added to clarify the loss of previously conforming rights when a premises or use is brought into conformance. References to previously conforming parking and landscape regulations that are contained in Chapter 14 were added. Regulations were revised so that a previously conforming use cannot change to a use that is separately regulated.

Chapter 13

- Revisions were made to the use categories and subcategories for base zones and minor revisions were made to the use regulations tables. Amusement parks were deleted as separately regulated uses and only larger outdoor facilities are included in the scope of privately operated recreation facilities. Clarifications were made to the mobile home park, multiple dwelling unit, and single dwelling unit use subcategories to better link the definition to the lot or premises. Repair, distribution and assembly were deleted from the retail sales use category. Photographic services was added to the business support use subcategory. New commercial services subcategories were added for funeral and mortuary services and radio and television studios. The public assembly and entertainment subcategory was revised for clarity. The light manufacturing subcategory was revised to exclude any uses that utilize explosive, petroleum, or radioactive materials.
- Child care centers and private recreational facilities were added as conditional uses in the OP-1-1 zone and park maintenance facilities were added as permitted uses in the OP-2-1 zone. Minor telecommunication facilities are a limited use in those zones where they are allowed. The purpose of the OR zones was clarified. Golf course driving ranges are limited within the MHPA. Revisions to the regulations for development area were made to clarify that all of the area outside of the MHPA can be developed unless otherwise limited. Clarifications were added explaining when the additional 5 percent development area may be utilized.
- Interpretive centers were added as a permitted use in the AG zones and energy generation and distribution facilities were added as a conditional use in the AR zones. Minor telecommunication facilities are a limited use in the AG, AR and all residential zones. Privately operated outdoor recreation facilities were added as a separately regulated use requiring a CUP in the AR zones. Housing for senior citizens and exhibit halls and convention facilities were deleted as a separately regulated use in the AR zones.
- The maximum floor area ratio was increased from 0.30 to 0.35 in the RE-1-3 zone and in other RE zones when the setbacks are increased. Allowable structure height was increased from 30 feet to 35 feet and the exclusion of up to 400 square feet of garage area in the calculation of floor area ratio was added in the RS-1-8 through RS-1-14 and RT zones. The standard and minimum setback requirements were reduced for narrow lots.
- Development regulations for parking lot orientation were clarified. Many uses that were previously shown as permitted or conditionally permitted are no longer permitted when they are not consistent with other uses allowed in the particular zone or may now require a conditional use permit. Marine industry was deleted as a permitted use in the CR, CV and CC-5 zones. Funeral and mortuary services and radio and television studios have been added as permitted uses in all CR, CC, IL-2-1, IL-3-1, and IH-2-1 zones.

- Radio and television studios have been added as permitted uses in all industrial zones except the IP-1-1 and IH-1-1 zones. Sports arenas and stadiums have been added as conditional uses in the IP-2-1, IL-2-1, IL-3-1, and IH-2-1 zones. Regional and corporate headquarters are allowed in the IH-2-1 zone consistent with the existing Municipal Code (i.e., one per parcel). Camping parks have been deleted as a conditional use from all industrial zones. Impound storage yards have been revised from a conditional use to a permitted use in the IL-2-1, IL-3-1, and IS-1-1 zones and deleted from the IP-1-1 and IP-2-1 zones. Marine industry and marine related uses have been added as a permitted use in the IL-2-1 zone.

Chapter 14

- Parking standards for uses not covered in the Parking Regulations were added. Employee housing and communication antenna regulations were revised. Regulations prohibiting companion units when the vacancy rate exceeds 5 percent and within the Coastal Zone and the agricultural zones of the FUA were added. Revised restrictions on uses within the FUA to be consistent with the existing Municipal Code. Deleted amusement parks as a separately regulated use; it will be permitted under the subcategory of privately operated recreation facilities over 40,000 square feet. The decision process for automobile service stations was changed from Process Two to Process Three. Processing and packaging of plant and animal products was moved from agricultural use category to industrial use category.
- The applicability table for Landscape Regulations was clarified. The plant point schedule increased and plant material, irrigation, and area requirements were clarified. Yard planting area and point requirements were revised to include the existing Municipal Code planting point reduction. Overall plant point requirements were reduced. Revegetation requirements were revised to reflect requirements from the Landscape Technical Manual. Minor clarifications to brush management and water conservation requirements were added.
- Text was added to clarify parking requirements for previously conforming premises and to provide for a Neighborhood Development permit for uses that have been discontinued for more than two years. Parking requirements were added for transitional housing, botanical gardens, exhibit halls, convention facilities, funeral parlors and mortuaries, and vehicle sales and rentals.
- The threshold for development area regulations on steep hillsides for single dwelling unit lots was reduced to 15,000 square feet. The Site Development Permit exemption for interior or exterior modifications was revised to require a 40-foot setback from the coastal bluff edge for any second-plus story addition to a structure on a sensitive coastal bluff. Site Development Permit exemptions were added for zone two brush management and minor improvements for existing structures on steep hillsides, consistent with the existing Municipal Code. A Site Development Permit exemption was added for habitat restoration projects. The development area exemption for mining and extractive industries with the MHPA was deleted. An exemption from the development area limitations for sensitive biological resources for zone two brush management was added. Code enforcement regulations have been added for unlawful development in environmentally sensitive lands. Revisions were made to the emergency permit regulations to acknowledge that only authorization is necessary to impact environmentally sensitive lands in the event of an emergency and that a subsequent Site Development Permit will

only be required if the impacts are permanent. The requirement for consultation with the wildlife agencies was revised to require that the applicant confer with the agencies. The regulations for unavoidable impacts to wetlands were revised to reference impacts associated with a deviation instead, since a deviation is the only way impacts to wetlands can be considered. Regulations requiring wetland buffers were added. Regulation that limits impacts to sensitive biological resources outside the MHPA for specified conditions was added. The requirement to avoid impacts to narrow endemic species was revised to only apply inside the MHPA. Measures for protection of narrow endemic species outside the MHPA were added and specific mitigation requirements were deleted. A regulation requiring consistency with the City of San Diego MSCP Subarea Plan was added. Regulations for grading during wildlife breeding seasons were added. A clarification was added that the setbacks from the coastal bluff edge apply to all development. Regulations requiring a visual corridor were revised. New regulations for alternative compliance for additional steep hillside encroachment were added.

- Regulations for Class II historical resources were deleted and regulations for remaining historical resources were reorganized. Minor modifications were made to the applicability text and table for clarification and consistency with revisions to regulations. Minor modifications were made to site-specific survey requirements to clarify language and allow areas to be exempted by the City Manager or Historical Resources Board. An exemption was added which provides for substantial alteration of a non-contributing structure located in a historic district. The exemption for an important archaeological site was modified to require a 100-foot setback with no discretion. Minor modifications were made to the general development regulations for clarification and to reference the Historical Resources Guidelines of the Land Development Manual. The requirement for Covenants of Easements was deleted. Regulations have been added requiring approval of new development on a premises when a deviation for demolition or removal of designated historical building or structure has been granted.
- A Neighborhood Development Permit was added to the regulations applicability table for previously conforming parking for a discontinued use. In the regulations applicability table, the Site Development Permits for the Airport Approach Overlay Zone, the Airport Environs Overlay Zone, and the Clairemont Mesa Height Limit Overlay Zone were corrected to indicate a Process Three rather than a Process Five decision.
- The title and applicability of the general development regulations for Planned Development Permits (Section 143.0410) were revised so that they do not apply to those Planned Development Permits within Land Use Plans that require the permit in conjunction with another discretionary action. If deviations from any base zone development regulations are proposed, a requirement for compliance with the general development regulations was added; deviations to residential density are not permitted. Some of the regulations in the general development regulations section were revised to state that they "should" be complied with, rather than "shall" be complied with, in order to provide flexibility in how a development can achieve compliance. The maximum permitted building coverage for residential projects was increased to 60 percent. Open space requirements were revised or deleted. Other minor revisions for clarification were made to other Planned Development Permit regulations.
- The purpose and applicability of the SRO hotel regulations was revised to include rehabilitation of existing SRO hotels and rooms. The housing replacement requirement for new SRO hotel

rooms to contain a sink and screened toilet was deleted in favor of revisions to the definition of SRO hotel room. Other minor revisions for clarification were made to other SRO hotel regulations.

LAND DEVELOPMENT MANUAL

Biology Guidelines

- The Development Regulations for development in the MHPA were revised to incorporate the special conditions of coverage including impact avoidance areas within specified distances of nesting sites of certain raptors, known locations of southwestern pond turtles, and occupied burrowing owl burrows. Regulations were added for protection of narrow endemic species outside the MHPA. Regulations were added for wetland buffers and the definition of wetlands was revised. Restrictions were added with regard to grading activities during the breeding seasons of several bird species as identified by the conditions of coverage.
- The procedures for impact analysis and mitigation were modified to clarify that a biological survey report is required for all proposed development subject to the ESL regulations or where a CEQA initial study has resulted in the determination that there may be a significant impact on biological resources considered sensitive pursuant to CEQA. Further, the guidelines were revised to clarify that the survey report must identify impacts to Sensitive Biological Resources and to other significant biological resources as determined pursuant to the CEQA process. The guidelines were revised to state that mitigation may be required for sensitive species not covered by the MSCP, pursuant to CEQA.

Coastal Bluffs and Beaches Guidelines

- The Guidelines were revised to reflect the revisions made to the definitions of coastal bluff edge and reference to the geology and rounding of the bluff edge was added to the explanation of this definition. The explanation of the definition of coastal bluff face was revised to include reference to a rounded bluff edge. New diagrams were added for the definitions of coastal bluff edge and coastal bluff face. The description of the bluff edge setback regulations were revised to clarify that the basic 40-foot setback is a minimum and that a setback of more than 40 feet could be required. A statement was added that the rate of retreat of the bluff shall be considered in determining the bluff stability. A statement was added that future erosion control measures may be precluded if a reduced bluff edge setback is utilized. The regulations for view corridors and access easements were separated. In the Bluff Measurement Guidelines section, the interpretation of the coastal bluff edge definition was deleted since this information was included in the explanation of the definitions section. A clarification of the bluff edge examples was added. The bluff edge regulations for sea caves, gullies, and coastal canyons were revised and explanations of each of these land forms was added.

Historical Resources Guidelines

- The sections on San Diego History and Consultant Qualifications were made appendices to the Guidelines and other appendices were added. Revisions to clarify and better organize the text and incorporate public review comments were made. The Introduction and Development Review Process sections were modified to reflect the changes to the Code. Regulations for Class II historical resources were deleted. Areas to be exempted from the requirement for a site specific survey for the identification of a potential historical building or historical structure were added. Requirements for notification and consultation with the Native American Community were added. Requirements for curation of historical materials were added.

Landscape Guidelines

- Modifications to the revegetation requirements were made to be consistent with changes to the Code. Tree planting and maintenance requirements in the public right-of-way were added.

Steep Hillside Guidelines

- Clarification was added as to what is included as existing development area for a premises. The Findings and Deviations section was renamed and revised to address the revisions that were made to the Site Development Permit and alternative compliance and deviation findings. Other minor revisions were made to terms for clarification.

Article 3: Supplemental Development Regulations

Division 7: Affordable Housing Density Bonus Regulations

§143.0710 Purpose of Affordable Housing Density Bonus Regulations

The purpose of these regulations is to provide increased residential *density* to developers who guarantee that a portion of their residential *development* will be available to *moderate income*, *low income*, *very low income*, or senior households. The regulations are intended to materially assist the housing industry in providing adequate and affordable housing for all economic segments of the community and to provide a balance of housing opportunities for *moderate income*, *low income*, *very low income*, and senior households throughout the City. It is intended that the affordable housing *density* bonus and any additional *development* incentive be available for use in all residential *development* of five or more units, using criteria and standards provided in the Progress Guide and General Plan, as defined by the San Diego Housing Commission; that requests be processed by the City of San Diego, and that they be implemented by the President and Chief Executive Officer of the San Diego Housing Commission. It is also intended that these regulations implement the provisions of California Government Code Sections 65915 through 65918.

§143.0715 When Affordable Housing Density Bonus Regulations Apply

This division applies to any residential *development*, located on land where current zoning allows for five or more pre-*density* bonus *dwelling units*, where an *applicant* proposes *density* beyond that permitted by the applicable zone in exchange for either of the following as set forth in this division:

- (a) A portion of the total *dwelling units* in the *development* being reserved for *moderate*, *low*, or *very low income* households or for senior citizens through a written agreement with the San Diego Housing Commission; or
- (b) The donation of land, in accordance with California Government Code Section 65915.

§143.0720 Density Bonus in Exchange for Affordable Housing Units

- (a) A *development* shall be entitled to a *density* bonus and incentives as described in this division, for any residential *development* for which a written agreement, and a deed of trust securing the agreement, is entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission. The agreement and deed of trust in favor of the San Diego Housing Commission are to be recorded in the Office of the Recorder of the County of San Diego as an encumbrance against the *development*.

- (b) The density bonus units authorized by this division shall be exempt from the Inclusionary Housing Regulations set forth in Chapter 14, Article 2, Division 13.
- (c) A rental affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
 - (1) Housing for senior citizens - The *development* consists of housing for senior citizens or qualifying residents as defined under California Civil Code Section 51.3 and 51.12, where at least 35 *dwelling units* are provided; or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Section 798.76 or 799.5.
 - (2) Affordable housing units -
 - (A) *Low income* - At least 10 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *low income* households at a rent that does not exceed 30 percent of 60 percent of area median income, as adjusted for assumed household size; or
 - (B) *Very low income* - At least 5 percent of the pre-*density* bonus units in the *development* shall be affordable, including an allowance for utilities, to *very low income* households at a rent that does not exceed 30 percent of 50 percent of the area median income, as adjusted for assumed household size.
 - (C) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
 - (3) The *dwelling units* shall remain available and affordable for a period of at least 30 years or longer as may be required by other laws.
- (d) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria consistent with the procedures established by the San Diego Housing Commission:
 - (1) For-sale density bonus shall only be available to common interest *development*, as defined by California Civil Code Section 1351, where at least 10 percent of the pre-*density* bonus units in the *development* shall be initially sold and affordable to *moderate*

income households at a price that is affordable to families earning 110 percent of the area median income as adjusted or assumed household size, as determined by the San Diego Housing Commission, and where all of the *dwelling units* are offered to the public for purchase.

- (2) Prior to, or concurrent with, the sale of each *density* bonus affordable unit, the *applicant* shall require the buyer to execute and deliver a promissory note in favor of the San Diego Housing Commission so that the repayment of any initial subsidy is ensured.
- (3) Each for-sale unit shall be occupied by the initial owner at all times until the resale of the unit.
- (4) Upon the first resale of a unit the seller shall comply with all conditions regarding the sale of a unit, as applied by the San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).
- (5) The affordable units shall be designated units, be comparable in bedroom mix and amenities to the market-rate units in the *development*, and be dispersed throughout the *development*.
- (e) The *density* bonus units shall have recorded against them a Declaration of Covenants, Conditions and Restrictions in favor of the San Diego Housing Commission that shall enjoy first lien position and shall be secured by a deed of trust that may be recorded against the project or unit, as applicable, prior to construction or permanent financing.
- (f) Provision shall be made by the San Diego Housing Commission for certification of eligible tenants and purchasers, annual certification of property owner compliance, payment of a monitoring fee to the San Diego Housing Commission, as adjusted from time to time, for monitoring of affordable unit requirements, and any other terms that the San Diego Housing Commission determines are needed to implement the provisions and intent of this division and State law.

§143.0725 Density Bonus Provisions

A *development* proposal requesting an affordable housing *density* bonus is subject to the following:

- (a) For senior citizen housing meeting the criteria of Section 143.0720(c)(1), the *density* bonus shall be 20 percent.

- (b) For *development* that includes affordable housing, pursuant to the Inclusionary Housing Regulations in Chapter 14, Article 2, Division 13, and that affordable housing is located onsite, that *development* shall be entitled to a *density* bonus, equal to the number of affordable units provided onsite, up to a maximum of 10 percent of the pre-*density* bonus units. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent.
- (c) For *development* meeting the criteria for *low income* in Section 143.0720(c)(2)(A), the *density* bonus shall be calculated as set forth in Table 143-07A. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable *floor area ratio* applicable to the *development* consistent with Section 151.0310(e).
- (d) For *development* meeting the criteria for *very low income* in Section 143.0720(c)(2)(B), the *density* bonus shall be calculated as set forth in Table 143-07B. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable floor area ratio applicable to the *development* consistent with Section 151.0310(e).
- (e) For *development* meeting the criteria for *moderate income* in Section 143.0720(d), the *density* bonus shall be calculated as set forth in Table 143-07C. The increased *density* shall be in addition to any other increase in *density* allowed in this division, up to a maximum combined *density* increase of 35 percent. For *development* meeting the same criteria within the Centre City Planned District, the bonus shall apply to the maximum allowable floor area ratio applicable to the *development* consistent with Section 151.0310(e).
- (f) If the *premises* is located in two or more zones, the number of *dwelling units* permitted in the *development* is the sum of the *dwelling units* permitted in each of the zones. Within the *development*, the permitted number of *dwelling units* may be distributed without regard to the zone boundaries.
- (g) Where the *development* consists of two or more specifically identified parcels, whether contiguous or noncontiguous, the maximum number of *dwelling units* permitted on each parcel is calculated based on the area of that parcel.

- (h) Where the *development* consists of two or more noncontiguous parcels lying within two or more community planning areas, the *dwelling units* reserved at levels affordable by *moderate income*, *low income* or *very low income* households shall be distributed among community planning areas in the same proportion as the total number of *dwelling units* constructed within the *development*.

§143.0730 Density Bonus in Exchange for Donation of Land

An *applicant* for a *tentative map*, *parcel map*, or residential *development* permit, may donate and transfer land to the City for *development* with affordable housing units, in exchange for a *density* bonus, in accordance with California Government Code Section 65915.

§143.0740 Development Incentives for Affordable Housing Density Bonus Projects

The City shall process an incentive requested by an *applicant*, consistent with State law and as set forth in this Section.

- (a) The applicant shall demonstrate that the incentive is necessary to make the housing units economically feasible.
- (b) An incentive means any of the following:
 - (1) A deviation to a *development* regulation;
 - (2) Approval of mixed use zoning in conjunction with a residential *development* provided that the commercial, office, or industrial uses:
 - (A) Reduce the cost of the residential *development*; and
 - (B) Are compatible with the proposed residential *development*; and
 - (C) Are compatible with existing or planned *development* in the area where the proposed residential *development* will be located.
 - (3) Any other incentive proposed by the applicant, other than those identified in Section 143.0740(c), that results in identifiable, financially sufficient, actual cost reductions.
- (c) Items not considered incentives by the City of San Diego include, but are not limited to the following:
 - (1) A waiver of a required permit;

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- (2) A deviation from the requirements of the Coastal Height Limit Overlay Zone (Chapter 13, Article 2, Division 5);
 - (3) A waiver of fees or dedication requirements;
 - (4) A direct financial incentive;
 - (5) A deviation from the requirements of the City of San Diego Building Regulations.
- (d) An incentive requested as part of a *development* meeting the requirements of Sections 143.0720(c)(2) or 143.0720(d) shall be processed according to the following:
- (1) Upon an *applicant's* request, *development* meeting the applicable requirements of Sections 143.0720 and 143.0725 shall be entitled to incentives pursuant to Section 143.0740 unless the City makes a written finding of denial based upon substantial evidence, of either of the following:
 - (A) The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053.
 - (B) The incentive would have a specific adverse impact upon health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the *development* unaffordable to *low* and *moderate income* households.
 - (2) Granting an incentive shall not require a General Plan amendment, zoning change, or other discretionary approval.
 - (3) The decision process for a *development* requesting an incentive shall be the same decision process that would be required if the incentive were not a part of the project proposal.
 - (4) The *development* permit requirement for a *development* requesting an incentive shall be the same *development* permit that would be required if the incentive were not a part of the project proposal.
- (e) The number of incentives available are identified in Table 143-07A for *low income*, Table 143-07B for *very low income*, and Table 143-07C for

moderate income consistent with the percentage of pre-*density* bonus units identified in column one of each table.

Table 143-07A
Low Income Density Bonus
Rental Housing

Percent <i>Low Income</i> units	Percent <i>Density</i> Bonus	Number of Incentives
10	20	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
16	29	1
17	30.5	1
18	32	1
19	33.5	1
20 – 29	35	2
≥ 30	35	3

Table 143-07B
Very Low Income Density Bonus
Rental Housing

Percent <i>Very</i> <i>Low Income</i> Units	Percent <i>Density</i> Bonus	Number of Incentives
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5	2
11 – 14	35	2
≥ 15	35	3

Table 143-07C
Moderate Income Density Bonus
For-Sale Housing

Percent <i>Moderate Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
10	20	1
11	21	1
12	22	1
13	23	1
14	24	1
15	25	1
16	26	1
17	27	1
18	28	1
19	29	1
20	30	2
21	31	2
22	32	2
23	33	2
24	34	2
25 – 29	35	2
≥ 30	35	3

- (f) Child Care Center: *Development* that meets the criteria in 143.0720 and includes a child care center as defined in Section 141.0606(a)(2) as part of, or adjacent to, such *development* shall be entitled to an additional *density* bonus or incentive provided that:
- (1) The child care center remains in operation for the greater of 30 years, or the period of time established by Section 143.0720(c)(3);
 - (2) The percentage of children from *low, very low, or moderate income* households attending the child care center is equal to or greater than the percentage of those same households required in the residential *development*;
 - (3) The additional *density* bonus or incentive requested is either:
 - (A) An additional *density* bonus in an amount equal to the amount of square feet in the child care center up to a maximum combined *density* increase of 35 percent; or

- (B) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care center; and
- (4) The City finds, based upon substantial evidence, that the community is inadequately served by child care centers.
- (g) Parking: In addition to any other incentive, and upon the request of an *applicant* that proposes a *development* meeting the criteria of Section 143.0720(c) or (d) the City shall apply the following vehicular parking ratio, inclusive of handicapped and guest parking:
 - (1) Zero to one bedroom: one onsite parking space
 - (2) Two to three bedrooms: two onsite parking spaces
 - (3) Four and more bedrooms: two and one-quarter parking spaces
 - (4) Additional reductions to the parking ratios shall be granted for projects within a *transit area*, and for *very low income* households as follows:
 - (i) *Development* that is at least partially within a *transit area* as described in Chapter 13, Article 2, Division 10 (Transit Area Overlay Zone) or that is subject to Chapter 13, Article 2, Division 11 (Urban Village Overlay Zone), shall receive a 0.25 space per *dwelling unit* reduction in the parking ratio for the entire *development*.
 - (ii) *Development* that includes *dwelling units* limited to occupancy by *very low income* households shall receive a 0.25 space reduction in the parking ratio for each *dwelling unit* that is limited to occupancy by a *very low income* household.
 - (iii) *Development* that includes *dwelling units* limited to occupancy by *very low income* households, and is at least partially within a *transit area*, shall receive the combined reductions in sections 143.0740(d)(4)(i) and (ii).
- (5) For purposes of this division, a *development* may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking or parking within a required front yard setback.

§143.0750 Development in the Coastal Overlay Zone

- (a) *Development* within the Coastal Overlay Zone that proposes to use the regulations of this division shall be subject to the applicable certified land use plan and implementing ordinances, including a Coastal Development Permit (Chapter 12, Article 6, Division 7), as described in Chapter 13, Article 2, Division 4.
- (b) The City may consider deviations from the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1 when requested by an *applicant* as an incentive for providing affordable housing consistent with this division, provided that the supplemental *findings* in Section 126.0708(b)(2) can be made.

126.0708 Findings for Coastal Development Permit Approval

An application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are applicable to the proposed *development*.

- (a) [no change]
- (b) Supplemental Findings - Environmentally Sensitive Lands Within the Coastal Overlay Zone
 - (1) When a deviation is requested from the Environmentally Sensitive Lands Regulations because the *applicant* contends that application of the regulations would result in denial of all economically viable use, the following shall apply:
 - (A) Any *development permit* in the Coastal Overlay Zone, required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested in accordance with Section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* and the supplemental *findings* for deviations from the Environmentally Sensitive Lands Regulations in addition to the *findings* for the applicable *development* permit(s):
 - (i) Based on the economic information provided by the *applicant*, as well as any other relevant evidence, each use provided for in the Environmentally Sensitive Lands Regulations would not provide any economically viable use of the *applicant's* property;
 - (ii) Application of the Environmentally Sensitive Lands Regulations would interfere with the *applicant's* reasonable investment-backed expectations;
 - (iii) The use proposed by the *applicant* is consistent with the applicable zoning;
 - (iv) The use and project design, siting, and size are the minimum necessary to provide the *applicant* with an economically viable use of the *premises*; and
 - (v) The project is the least environmentally damaging alternative and is consistent with all provisions of

the certified Local Coastal Program with the exception of the provision for which the deviation is requested.

- (B) The Coastal Development Permit shall include a determination of economically viable use.
 - (C) The public hearing on the Coastal Development Permit shall address the economically viable use determination.
 - (D) The *findings* adopted by the decision making authority shall identify the evidence supporting the *findings*.
- (2) A deviation from the Environmentally Sensitive Lands Regulations when requested as an incentive for providing affordable housing pursuant to the Affordable Housing Density Bonus Regulations in Chapter 14, Article 3, Division 7, may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0708(a)(1) through (4):
- (A) Feasible alternatives to the requested incentive and the effect of such alternatives on coastal resources have been considered;
 - (B) Granting the incentive or alternative will not adversely affect coastal resources.

§141.0310 Housing for Senior Citizens

Housing for senior citizens may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) [no change]
- (b) Housing for senior citizens may be permitted a *density* bonus as provided in Chapter 14, Article 3, Division 7 (Affordable Housing *Density* Bonus Regulations).
- (c) through (e) [no change]

**Parking Ratios for Projects Utilizing
Affordable Housing Density Bonus**

Unit Size	Proposed Density Bonus ¹	Citywide Requirement for Multi-family	Difference
Studio	1.00	1.25 ²	-0.25
1 bdrm.	1.00	1.50 ²	-0.50
2 bdrms.	2.00	2.00	0
3 bdrms.	2.00	2.25	-0.25
4+ bdrms.	2.25 ³	2.25	0

¹ Additional decreases allowed in the Land Development Code for very-low income and Transit and Urban Village Overlay Zone would be in addition to these reductions. Also the state regulations require that tandem parking be permitted and counted toward meeting the ratios.

² Senior Housing (maximum 1 bedroom) – 1 space/unit, or 0.7 space/unit plus 1 space/employee at peak hours.

³ The state requirement is for 2.5 spaces; however it has been reduced to the citywide requirement of 2.25.